

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 13, 2003

IN RE:

PETITION OF US LEC TENNESSEE, INC. FOR
DECLARATORY ORDER

)
)
)
)

DOCKET NO.
02-00890

ORDER MODIFYING BRIEFING SCHEDULE

This matter is before the Pre-Hearing Officer on the *Joint Motion to Modify Briefing Schedule* by Petitioner US LEC Tennessee, Inc. ("US LEC") and Respondent Airstream Wireless Services, Inc. ("Airstream") filed on February 12, 2003.

On February 7, 2003, the Pre-Hearing Officer issued the *Notice of Briefing Schedule* which directed Airstream to file no later than Tuesday, February 18, 2003 a brief with legal support on the jurisdictional issue raised as an affirmative defense in its Response. The Notice directed US LEC to file a response to Airstream's brief no later than Friday, February 28, 2003.

The Joint Motion requests that each of those dates be extended by two weeks. The parties are in agreement that the extension of time is appropriate and will cause no prejudice.

The Briefing Scheduled shall be modified as follows:

Airstream is hereby directed to file no later than **Tuesday, March 4, 2003** a brief with legal support on the jurisdictional issue raised as an affirmative defense in its Response. At a minimum, the brief shall address:

- The Tennessee Regulatory Authority's ("TRA") jurisdictional authority over this dispute under Tenn. Code Ann. §§ 65-4-103, 65-4-104, 65-4-106, 65-4-117(1) and (3) and 65-5-210(a).

- Whether the TRA has jurisdiction to interpret the parties' Customer Service Agreement.
- Whether Airstream is a public utility within the meaning of Tenn. Code Ann. § 65-4-101(a).
- Whether Airstream is purchasing intrastate access service from US LEC.

Airstream is further directed to file no later than **February 25, 2003**: (1) a legible copy of the agreement at issue between Airstream and US LEC; and (2) copies of all pleadings from the lawsuit relating to this matter filed in Shelby County Chancery Court.

US LEC is directed to file a response to Airstream's brief no later than **Friday, March 14, 2003**.¹

IT IS THEREFORE ORDERED THAT:

The *Joint Motion to Modify Briefing Schedule* jointly filed by US LEC Tennessee, Inc. and Airstream Wireless Services, Inc. is hereby granted as set forth above.



Lynn Questell
Pre-Hearing Officer

¹ All filings shall comply with Tenn. Comp. R. & Reg. 1220-1-1-.03.